THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.26102 of 2006

Date: 27-12-2006

Between:
N.Roopsingh Naik,
W/o Venkataiah, aged 40 years,
Ex-sarpanch, r/o Annojiguda,
R/o Annojiguda, h/o Pocharam,
Ghatkesar Mandal, Ranga Reddy District.

... Petitioner.

And

1. The District Collector (Panchayat Wing),
   Ranga Reddy District and 2 others.

... Respondents.

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ORDER:

Learned Assistant Government Pleader for Panchayat Raj, had taken notice on 15.12.2006. Heard Sri Bali Reddy learned senior counsel representing the writ petitioner and also learned Assistant Government Pleader for Panchayat Raj.

2. The writ petition is filed for a writ of Mandamus or any other appropriate writ or order or direction, declaring order passed by the first respondent in Proc.No.B2/2161/2006, dated 24.11.2006, as arbitrary, illegal and violative of principles of natural justice and pass such other suitable orders.

3. The impugned order dated 24.11.2006 reads as hereunder.

" ORDER:

Whereas the Ex-Sarpanch Gram Panchayat Pocharam of Ghatkesar Mandal (Now MPTC) has been served a show cause notice vide reference 1st cited, for recovery of Rs.65,87,776/- under Gram Panchayat Funds, as arrears of L.R. U/S.265(1) of A.P.P.R. Act, 1994 asking him to submit replies and G.P. records. But Sri Nanavath Roop Singh, Ex-Sarpanch, Gram Panchayat Pocharam (Now MPTC) avoided to submit his replies and G.P. records to this office.

Therefore, in exercise of powers conferred U/S.265(1) of A.P.P.R. Act, 1994 the Ex-Sarpanch Gram Panchayat Pocharam of Ghatkesar is directed to remit an amount of Rs.65,87,776/- to the funds of Gram Panchayat Pocharam within (15) days, for the date of receipt of these amount. If not the Mandal Revenue Officer, Ghatkesar, shall collect the said amounts as arrears of LR U/S.265(1) of A.P.P.R. Act, 1994 and remit the same to the funds of Gram Panchayat account. The Mandal Revenue Officer, Ghatkesar is requested to intimate the challan. No. date of remittance to this office in due course."

4. It is stated that the petitioner was elected as sarpanch for Pocharam Gram Panchayat, Ghatkesar Mandal in the year 2001 and the term of office was for a period of five years and the same had been completed in August 2006. It is also stated that the Pocharam Gram Panchayat is very near to Hyderabad and there were several developmental activities in the village. During his tenure as sarpanch of Gram Panchayat several developmental activities had undertaken and there was no complaint from any quarter against the petitioner during his tenure as sarpanch of Pocharam. It is also stated that in the recent elections held to the post of sarpanch, his opponent got elected. It is also stated that first respondent issued show cause notice dated 21.8.2006 to the petitioner in his proceedings Roc.No.B2/2161/2006 levelling four charges against the petitioner. The details of the charges also had been narrated. It is also stated that

after receipt of the said notice, the petitioner approached the office of the Gram Panchayat to verify relevant records to meet the charges levelled against the petitioner. The petitioner was informed that all the records had been sent to the first respondent. Immediately, on 12.9.2006 the petitioner made a representation to the first respondent requesting him to furnish records enabling him to offer explanation, but the first respondent did not consider the said request and the entire material on which the petitioner is expected to offer his explanation is in the nature of documents and without looking into the records the petitioner will not be in a position to submit his explanation. Further the transactions had taken place over a period of five years and it is not possible to offer his explanation without going into the records. It is also stated that since there was no response from the first respondent, the petitioner thought that further action had been dropped against him. But to his utter surprise, the petitioner received an order dated 24.11.2006 in the impugned proceedings directing him to remit an amount of Rs.65,87,776/- to the funds of Gram Panchayat exercising the powers conferred under Section 265(1) of the Act. The said order is questioned on several grounds inclusive of non-affording any opportunity and being in violation of principles of natural justice.

5. In the light of the facts and circumstances well explained inasmuch as it would be difficult for the writ petitioner to submit his explanation unless the petitioner is permitted to verify the records for over a period of five years, this Court is of the considered opinion that the impugned order dated 24.11.2006 is hereby set aside and the petitioner to be given an opportunity by the respondents to verify concerned records for the last five years so as to enable him to submit his explanation. Inasmuch as the show cause notice dated 21.8.2006

already had been issued, the writ petitioner is at liberty to approach respondents 1 and 2 to verify the records within a period of two weeks from the date of receipt of a copy of this order and respondents 1 and 2 to permit the petitioner to verify all the relevant records so as to enable him to submit proper explanation in relation to the show cause notice and on such verification the writ petitioner is expected to submit his explanation or objections, if any, within a period of four weeks, thereafter, on receipt of such explanation or objections from the petitioner the same to be considered and appropriate decision is to be taken in this regard in accordance with law.

6. With the above directions, the writ petition is disposed of. No order as to costs.

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P.S.NARAYANA, J.

Date: December 27, 2006.

BSB